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NATIONAL RAILROAD PASSENGER CORPORATION  
dba AMTRAK

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CANDACE KING, an individual, and  
KELLY KING, an Individual,

Plaintiffs,

v.

NATIONAL RAILROAD PASSENGER  
CORPORATION dba AMTRAK, a  
corporation; UNION PACIFIC RAILROAD  
COMPANY, a corporation; CITY OF  
FREMONT, a public entity; CAPITOL  
CORRIDOR JOINT POWERS  
AUTHORITY, a public entity; THOMAS  
DOLLAHON, an individual; and DOES 1-  
50 inclusive,

Defendants.

Case No.

**NOTICE OF REMOVAL BY DEFENDANT  
NATIONAL RAILROAD PASSENGER  
CORPORATION DBA AMTRAK**

CASTILLO MORIARTY TRAN & ROBINSON LLP  
75 Southgate Ave  
Daly City, CA 94015

1 Defendant NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK  
2 (“Defendant”) alleges as follows:

3 1. On January 4, 2023, plaintiffs Candace King and Kelly King filed the Complaint  
4 in the Superior Court of the State of California, County of Alameda, entitled *Candace King, et al.,*  
5 *v. National Railroad Passenger Corporation dba Amtrak, et al.*, Case No. 23CV025180. The  
6 Complaint names as defendants National Railroad Passenger Corporation dba Amtrak, Union  
7 Pacific Railroad Company, City of Fremont, Capitol Corridor Joint Powers Authority, and  
8 Thomas Dollahon. A true and correct copy of that unverified Complaint is attached hereto as  
9 **Exhibit A.**

10 2. On January 18, 2023, Amtrak submitted for filing an Answer to Plaintiffs’  
11 Complaint in the Superior Court for the County of Alameda. A true and correct copy of that  
12 Answer is attached hereto as **Exhibit B.**







13 3. This Court has original jurisdiction over plaintiff’s claims against Amtrak under  
14 28 U.S.C. § 1331 because Amtrak was incorporated by an Act of Congress, 45 U.S.C. § 501, *et*  
15 *seq.*, and because the United States of America owns more than 50% of Amtrak’s capital stock.  
16 28 U.S.C. § 1349; *In re Rail Collision Near Chase, Maryland*, 680 F.Supp. 728, 731 (D.Md.  
17 1987).

18 4. The removal of this action to this Court is proper under 28 U.S.C. § 1441(a)  
19 because this is a civil action over which the district courts of the United States have original  
20 jurisdiction, and this Court embraces the location in which the state action is pending.

21 5. As of the date this Notice is being filed (January 18, 2023), and based upon a  
22 review of the Alameda County Superior Court online docket, plaintiff has not filed a proof of  
23 service of the Summons and Complaint. [See Screenshot of the Online Docket below, taken  
24 January 18, 2023, showing that no proof of service has been filed.] Thus, on information and  
25 belief, the other named co-defendants – Union Pacific Railroad Company, City of Fremont,  
26 Capitol Corridor Joint Powers Authority, and Thomas Dollahon – have not been served with the  
27 Summons and Complaint. If a defendant has not yet been served in the action, then that defendant  
28 need not join in or consent to the removal. 28 U.S.C. § 1446(b)(2)(A); *see Destfino v. Reiswig*,

630 F.3d 952, 957 (9th Cir. 2011); *Gossmeier v. McDonald*, 128 F.3d 481, 489 (7th Cir. 1997).

#### Register of Actions

Date	Message	Category	Download
01/04/2023	Complaint Filed by: Candace King (Plaintiff); Kelly King (Plaintiff) As to: NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK, a corporation (Defendant); UNION PACIFIC RAILROAD COMPANY, a corporation (Defendant); CITY OF FREMONT, a public entity (Defendant) et al.	Document	
01/04/2023	Civil Case Cover Sheet Filed by: Candace King (Plaintiff); Kelly King (Plaintiff) As to: NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK, a corporation (Defendant); UNION PACIFIC RAILROAD COMPANY, a corporation (Defendant); CITY OF FREMONT, a public entity (Defendant) et al.	Document	
01/04/2023	Notice of Case Management Conference Filed by: Clerk	Document	
01/04/2023	Notice of Case Assignment Filed by: Clerk	Document	
01/05/2023	Initial Case Management Conference scheduled for 05/24/2023 at 02:30 PM in Rene C. Davidson Courthouse at Department 16	Event	
01/05/2023	Summons on Complaint Issued and Filed by: Candace King (Plaintiff); Kelly King (Plaintiff) As to: Candace King (Plaintiff); Kelly King (Plaintiff)	Document	
01/05/2023	Updated -- Summons on Complaint: As To Parties changed from Candace King (Plaintiff), Kelly King (Plaintiff) to UNION PACIFIC RAILROAD COMPANY, a corporation (Defendant), CITY OF FREMONT, a public entity (Defendant), THOMAS DOLLAHON (Defendant), CAPITOL CORRIDOR JOINT POWERS AUTHORITY, a public entity (Defendant), NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK, a corporation (Defendant)	Document	
01/05/2023	Case assigned to Hon. Tara Desautels in Department 16 Rene C. Davidson Courthouse	Assignment	

6. Unidentified defendants sued as “Does” need not join in a Notice of Removal.  
*Fristoe v. Reynolds Metals Co.*, 615 F.2d 1209, 1313 (9th Cir. 1980).

7. Thus, this Notice of Removal is timely and proper.

8. A copy of the Notice of Removal to Federal Court that will be filed with the Alameda County Superior Court is attached hereto as **Exhibit C**.

Dated: January 18, 2023

CASTILLO, MORIARTY, TRAN &  
ROBINSON LLP

By: /s/ Alexei Offill-Klein  
VINCENT CASTILLO  
ALEXEI N. OFFILL-KLEIN  
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NATIONAL RAILROAD PASSENGER  
CORPORATION dba AMTRAK

# **EXHIBIT A**

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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Alameda  
01/04/2023 at 03:36:13 PM  
By: Angela Linhares,  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ALAMEDA

CANDACE KING, an individual, and KELLY  
KING, an individual,

Plaintiffs,

v.

NATIONAL RAILROAD PASSENGER  
CORPORATION dba AMTRAK, a corporation;  
UNION PACIFIC RAILROAD COMPANY, a  
corporation; CITY OF FREMONT, a public  
entity; CAPITOL CORRIDOR JOINT POWERS  
AUTHORITY, a public entity; THOMAS  
DOLLAHON, an individual; and DOES 1  
through 50, inclusive,

Defendants.

Case No.: **23CV025180**

**COMPLAINT FOR DAMAGES**

1. Negligence - Wrongful Death
2. Premises Liability - Wrongful Death
3. Dangerous Condition of Public Property (Government Code §§ 830, 830.8, 835 et seq.) - Wrongful Death
4. Negligence (Government Code §§ 815.4, 818.6) - Wrongful Death

**DEMAND FOR JURY TRIAL**

Plaintiffs CANDACE KING and KELLY KING complain against Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK, UNION PACIFIC RAILROAD COMPANY, CITY OF FREMONT, CAPITOL CORRIDOR JOINT POWERS AUTHORITY, THOMAS DOLLAHON, and DOES 1 through 50, inclusive and each of them, and allege as follows:

**GENERAL ALLEGATIONS**

1. At all times relevant hereto, Decedent Gwendolyn Rea Lockington Munoz (hereinafter, "Decedent") was a resident of the State of California.

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1           2.     Plaintiffs CANDACE KING and KELLY KING are residents of the State of Indiana and  
2     State of Oregon, respectively. Plaintiffs CANDACE KING and KELLY KING are Decedent's surviving  
3     children. Plaintiffs CANDACE KING and KELLY KING bring this action as specified in California Code  
4     of Civil Procedure § 377.60 *et seq.*

5           3.     The following paragraphs of the Complaint are made upon information and belief.

6           4.     On May 19, 2022, at approximately 3:35 P.M., Decedent was struck without  
7     sufficient warning and killed by Defendant NATIONAL RAILROAD PASSENGER CORPORATION dba  
8     AMTRAK (hereinafter, "AMTRAK") train AMT53-19 ("subject train"), operated by AMTRAK  
9     Engineer/Conductor, Defendant THOMAS DOLLAHON, as Decedent walked across the UNION  
10    PACIFIC RAILROAD CORPORATION railroad crossing and along the western side of the railroad  
11    tracks near the Fremont-Centerville Train Station located at 37260 Fremont Boulevard, Fremont,  
12    CA 94536, just north of Fremont Boulevard. Decedent had recently deboarded an AMTRAK train at  
13    the Fremont-Centerville Train Station and was attempting to cross the railroad tracks at that  
14    location to board another AMTRAK Train when she was struck and killed.

15          5.     The "INCIDENT SITE" refers to the railroad tracks and railroad crossing at the  
16    Fremont-Centerville Train Station located at 37260 Fremont Boulevard, Fremont, CA 94536, as  
17    well as the surrounding and adjacent property near the railroad tracks and railroad crossing at the  
18    Fremont-Centerville Train Station, which includes, but is not limited to, the location at which  
19    Decedent accessed the subject railroad tracks and crossing, the path Decedent walked across the  
20    subject railroad tracks, and the fencing placed along the western side of the subject railroad  
21    tracks and just south of the Fremont-Centerville Train Station, which blocked Decedent's access to  
22    the sidewalk running along the western side of the subject railroad tracks and which forced  
23    Decedent to walk along the railroad tracks themselves, where she was struck by the subject  
24    AMTRAK train without sufficient warning and killed.

25          6.     AMTRAK Engineer/Conductor, Defendant THOMAS DOLLAHON, and other members  
26    of the crew of the subject train, were at all relevant times the agents, servants, contractors,  
27    subcontractors, independent contractors, and/or employees of Defendants AMTRAK and DOES 1  
28    through 50, inclusive and each of them, at the time of the subject incident. Defendant AMTRAK

1 was and is at all relevant times to this action a District of Columbia corporation, which owns,  
2 operates, controls, and manages, among other things, a passenger railroad system, in and  
3 through the State of California and does business in the State of California, including in the County  
4 of Alameda and CITY OF FREMONT. The subject railroad tracks were owned, leased, controlled,  
5 designed, developed, constructed, managed, operated, inspected, maintained, and/or repaired by  
6 Defendant AMTRAK, and DOES 1 through 50, inclusive and each of them. Defendant AMTRAK  
7 owned, leased, controlled, designed, developed, constructed, managed, operated, inspected,  
8 maintained, and/or repaired part of the INCIDENT SITE, including, but not limited to, the fencing  
9 placed along the western side of the subject railroad tracks and just south of the Fremont-  
10 Centerville Train Station located in Fremont, California, which blocked Decedent's access to the  
11 sidewalk running along the western side of the subject railroad tracks and which forced Decedent  
12 to walk along the subject railroad tracks, where she was struck without sufficient warning and  
13 killed.

14 7. The subject railroad tracks were also owned, leased, controlled, designed,  
15 developed, constructed, managed, operated, inspected, maintained, and/or repaired by Defendant  
16 UNION PACIFIC RAILROAD COMPANY (hereinafter "UPRC"), and DOES 1 through 50, inclusive and  
17 each of them. Defendant UPRC owned, leased, controlled, designed, developed, constructed,  
18 managed, operated, inspected, maintained, and/or repaired part of the INCIDENT SITE, including,  
19 but not limited to, the fencing placed along the western side of the subject railroad tracks and  
20 south of the Fremont-Centerville Train Station located in Fremont, California, which blocked  
21 Decedent's access to the sidewalk running along the western side of the subject railroad tracks  
22 and which forced Decedent to walk along the subject railroad tracks, where she was struck  
23 without sufficient warning and killed. Defendant UPRC was and is at all relevant times to this  
24 action a Delaware corporation doing business in the State of California.

25 8. The subject railroad tracks were also owned, leased, controlled, designed,  
26 developed, constructed, managed, operated, inspected, maintained, and/or repaired by Defendant  
27 CITY OF FREMONT, and DOES 1 through 50, inclusive and each of them. Defendant CITY OF  
28 FREMONT owned, leased, controlled, designed, developed, constructed, managed, operated,

1 inspected, maintained, and/or repaired part of the INCIDENT SITE, including, but not limited to,  
2 the fencing placed along the western side of the subject railroad tracks and south of the Fremont-  
3 Centerville Train Station located in Fremont, California, which blocked Decedent's access to the  
4 sidewalk running along the western side of the subject railroad tracks and which forced Decedent  
5 to walk along the subject railroad tracks, where she was struck without sufficient warning and  
6 killed. Defendant CITY OF FREMONT was and is at all relevant times to this action a public entity  
7 within the meaning of California Government Code, §811.2. The CITY OF FREMONT negligently  
8 owned, leased, controlled, designed, developed, constructed, managed, operated, inspected,  
9 maintained, and/or repaired the surrounding and adjacent property at, about, around, and near  
10 the subject railroad tracks, including the INCIDENT SITE. Defendant CITY OF FREMONT is liable to  
11 Plaintiffs pursuant to California Government Code §§ 815.4, 818.6, 830, 830.8, and 835 *et seq.*,  
12 including without limitation § 835.2.

13 9. At all relevant times hereto, Defendants DOES 1 through 50, inclusive and each of  
14 them, were the agents, servants, and/or employees of Defendants AMTRAK, UPRC, and CITY OF  
15 FREMONT, and in doing the things herein alleged, were acting within the course and scope and  
16 purpose of their authority as such agents, servants, and/or employees, and with the permission  
17 and consent of their employers and co-Defendants. Defendants DOES 1 through 50, inclusive and  
18 each of them, tortiously inflicted the injuries to Plaintiffs in the scope of their employments,  
19 agency, and/or representation under circumstances where they would be personally liable under  
20 California Government Code §§ 815.2 and/or 840.2. Defendants DOES 1 through 50, inclusive and  
21 each of them, are negligently or otherwise responsible in some manner for the events and  
22 happenings herein referred to, and negligently or otherwise cause injuries and damages  
23 proximately thereby to the Plaintiffs as herein alleged.

24 10. At all times relevant hereto, Decedent was on the premises of the INCIDENT SITE  
25 solely due to the carelessness and negligence of Defendants AMTRAK, UPRC, CITY OF FREMONT,  
26 and DOES 1 through 50, inclusive and each of them.

27 11. At all times relevant hereto, Defendants DOES 1 through 50, inclusive and each of  
28 them, were either residents of the State of California, or doing business within the County of

1 Alameda and/or are subject to the jurisdiction of the State of California. The true names and  
2 capacities of Defendants DOES 1 through 50, inclusive and each of them, whether individual,  
3 corporate, associate, or otherwise, are unknown to Plaintiffs, who therefore sue said Defendants  
4 by said fictitious names. Plaintiffs will seek leave of the Court to amend this Complaint to allege  
5 the true names and capacities of Defendants DOES 1 through 50, inclusive and each of them,  
6 when ascertained.

7 12. At all times relevant hereto, all of said Defendants were the agents, servants,  
8 contractors, subcontractors, independent contractors, and/or employees of their co-Defendants,  
9 inclusive and each of them, and in doing the things herein mentioned, were acting in the course  
10 and scope of their authority as such agents, servants, contractors, subcontractors, independent  
11 contractors, and/or employees, and with the permission and consent of their co-Defendants.

12 13. Venue is proper in Alameda County Superior Court because the INCIDENT SITE is  
13 located in the County of Alameda, State of California, and as one or more Defendants reside, or  
14 are doing business in, the County of Alameda, State of California.

15 14. Plaintiffs have complied with the claim requirements of California Government Code  
16 §§ 905 and 915. Plaintiffs have caused written Claims for Wrongful Death to be served on all  
17 public entity Defendants, including but not limited to Defendants AMTRAK and CITY OF FREMONT.  
18 Said Claims have since been formally rejected or rejected by operation of law. Plaintiffs have  
19 complied with all applicable Government Code and public entity claims procedures.

20 15. Plaintiffs are informed and believe, and thereon allege, that each of the Defendants,  
21 including DOES 1 through 50, inclusive and each of them, is negligently or otherwise responsible  
22 in some manner for the events and happenings herein referred to, and that said Defendants  
23 negligently acted or failed to act. Said Defendants' acts, omissions, and negligence, and/or the  
24 dangerous condition of public property at the INCIDENT SITE, were the direct and proximate  
25 cause of Decedent's death.

26 16. As a direct and proximate result of said acts, omissions, and negligence of  
27 Defendants, inclusive and each of them, and/or the dangerous condition of public property at the  
28 INCIDENT SITE, Decedent Gwendolyn Rea Lockington Munoz was killed.

1        17. As a direct and proximate result of the injuries and death of Decedent Gwendolyn  
2 Rea Lockington Munoz, Plaintiffs have been generally damaged in sums in excess of the minimal  
3 jurisdictional limits of this Court.

4        18. As a direct and proximate result of said acts, omissions, and negligence of  
5 Defendants, inclusive and each of them, and/or the dangerous condition of public property at the  
6 INCIDENT SITE, Plaintiffs have been deprived of Decedent Gwendolyn Rea Lockington Munoz's  
7 love, companionship, comfort, care, assistance, protection, affection, society, and moral support,  
8 thereby proximately causing Plaintiffs' general damages in a sum to be ascertained according to  
9 proof.

10       19. Defendants AMTRAK, UPRC, CITY OF FREMONT, and DOES 1 through 50, inclusive  
11 and each of them, knew or should have known of one or more prior pedestrian injuries and/or  
12 deaths before Decedent's death in the same general area of the INCIDENT SITE, as a direct result  
13 of their failure to repair and/or warn of the dangerous condition of public property at the  
14 INCIDENT SITE, so repairs and/or warnings could be effected, preventing other pedestrians from  
15 entering the area of the subject railroad tracks at the INCIDENT SITE. As a result of their failure to  
16 repair and/or warn of the dangerous condition of public property at the INCIDENT SITE, Decedent  
17 was killed.

18       20. The INCIDENT SITE was in a dangerous condition at the time of the subject incident  
19 because it failed to provide adequate and/or properly functioning audio and/or visual railroad  
20 crossing warning devices and required train passengers to walk across the railroad tracks and in  
21 the paths of moving trains in order to disembark and/or board trains at the AMTRAK Centerville  
22 Train Station. The dangerous condition created a reasonably foreseeable risk of death or serious  
23 injury. Defendants AMTRAK, UPRC, CITY OF FREMONT, and DOES 1 through 50, inclusive and  
24 each of them, had notice of the dangerous condition for a long enough time to have protected  
25 against it. The failure of Defendants AMTRAK, UPRC, CITY OF FREMONT, and DOES 1 through 50,  
26 inclusive and each of them, to protect against the dangerous condition was a substantial factor in  
27 causing the death of Decedent and Plaintiffs' resulting harm.

28 ///

21. AMTRAK Engineer/Conductor, Defendant THOMAS DOLLAHON, operated the subject train within the course and scope of his employment with AMTRAK, and in so doing, negligently failed to stop or slow the subject train to prevent striking and killing Decedent despite observing Decedent walking across the INCIDENT SITE ¼- to ½-mile before impact.

**FIRST CAUSE OF ACTION FOR NEGLIGENCE – WRONGFUL DEATH UNDER CODE OF CIVIL PROCEDURE § 377.60 ET SEQ. AGAINST DEFENDANTS AMTRAK, UPRC, THOMAS DOLLAHON, AND DOES 1 THROUGH 50, INCLUSIVE AND EACH OF THEM**

22. Plaintiffs CANDACE KING and KELLY KING hereby re-allege and incorporate by reference each and every allegation contained in paragraphs 1 through 21 as though fully set forth herein.

23. As the subject train, which was being operated by AMTRAK Engineer/Conductor, Defendant THOMAS DOLLAHON, and other members of the crew of the subject train, approached the INCIDENT SITE, Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, so wantonly, recklessly, negligently, and carelessly operated, controlled, entrusted, and maintained the subject train so as to cause the train to strike and kill Decedent.

24. At all times relevant hereto, Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, negligently entrusted to AMTRAK Engineer/Conductor, Defendant THOMAS DOLLAHON, and other members of the crew of the subject train, the subject train that was owned, leased, controlled, designed, developed, constructed, managed, operated, inspected, maintained, and/or repaired by Defendants AMTRAK and DOES 1 through 50, inclusive and each of them.

25. Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, permitted AMTRAK Engineer/Conductor, Defendant THOMAS DOLLAHON, and other members of the crew of the subject train, to operate, engineer, and/or drive the subject train as their agents, servants, contractors, subcontractors, independent contractors, and/or employees.

26. AMTRAK Engineer/Conductor, Defendant THOMAS DOLLAHON, and other members of the crew of the subject train, were negligent *inter alia* in operating the subject train by failing to comply with safety regulations, failing to sound a sufficient audible warning device, failing to regulate the subject train under safe speed and/or failing to keep a lookout for Decedent, failing to

///

1 low or stop the subject train, and failing to control the subject train so as to avoid striking and  
2 killing Decedent.

3 27. Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, knew or  
4 should have known that AMTRAK Engineer/Conductor, Defendant THOMAS DOLLAHON, and other  
5 members of the crew of the subject train, were incompetent or unfit to operate, engineer, and/or  
6 drive the subject train. Said Defendants knew or should have known that AMTRAK  
7 Engineer/Conductor, Defendant THOMAS DOLLAHON, and other members of the crew of the  
8 subject train, were likely to use the subject train, or any other train, in a manner involving  
9 unreasonable risk of physical harm to others, whom said Defendants should expect to share in or  
10 be endangered by the use of the their train so as to directly and proximately cause Decedent's  
11 death and Plaintiffs' injuries and damages.

12 28. At all times relevant hereto, Defendants AMTRAK and DOES 1 through 50, inclusive  
13 and each of them, also negligently trained or negligently failed to train AMTRAK  
14 Engineer/Conductor, Defendant THOMAS DOLLAHON, and other members of the crew of the  
15 subject train.

16 29. Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, *inter alia*  
17 negligently trained and/or negligently failed to train AMTRAK Engineer/Conductor, Defendant  
18 THOMAS DOLLAHON, and other members of the crew of the subject train, who *inter alia*  
19 negligently failed comply with safety regulations, failed to sound a sufficient audible warning  
20 device, failed to maintain the subject train under safe speed, and/or failed to keep a lookout for  
21 Decedent and control the train so as to avoid striking and killing Decedent.

22 30. Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, also  
23 breached their duty to ensure the horn on the subject train complied with the audibility  
24 requirements of 49 CFR § 229.129. Defendants have no evidence that the train horn complied  
25 with 49 C.F.R. § 229.129 at the time of the subject incident. In fact, the horn did not provide  
26 sufficient audible warning of the subject train's approach prior to the subject incident.

27 31. Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, by  
28 themselves and through their crew, breached their duty to ensure that the subject train horn was

1 properly sounded to warn of the subject train's approach to the subject railroad crossing and  
2 INCIDENT SITE. To be "properly sounded" the horn must not only be loud enough, it must also be  
3 blown in the correct sequence and for a sufficient duration. The subject train's horn was not  
4 properly sounded in the moments leading up to the subject incident.

5 32. Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, have  
6 knowledge that their crews do not properly sound horns consistently, but have chosen not to  
7 investigate or punish horn violations, monitor for insufficient horn activation, or otherwise attempt  
8 to accurately document these violations. Instead, Defendants AMTRAK and DOES 1 through 50,  
9 inclusive and each of them, have intentionally misrepresented the extent of the problem by  
10 publishing false and misleading information concerning the nature and extent of the problem. As a  
11 result, their train crews are aware that the railroad condones horn violations. It is the routine  
12 practice of Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, to ignore  
13 violations of horn rules. Accordingly, Defendants AMTRAK and DOES 1 through 50, inclusive and  
14 each of them, breached their duties.

15 33. Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, and each  
16 of their crew, also breached their duty to slow or stop the train to avoid a specific, individual  
17 hazard at the INCIDENT SITE. They also failed to approach the INCIDENT SITE prepared to stop  
18 due to an "essentially local safety hazard." If the crew would have been prepared to stop, slowed  
19 the train, and/or applied the brakes in a timely fashion, they could have avoided the collision or  
20 changed the dynamic of the collision, thus preventing Decedent's death and Plaintiff's resulting  
21 damages.

22 34. At the time of the subject incident, the conditions at the INCIDENT SITE created an  
23 "essentially local safety hazard." However, Defendants AMTRAK, UPRC, and DOES 1 through 50,  
24 inclusive and each of them, negligently failed to recognize "essentially local safety hazards," failed  
25 to instruct train crews and others how to identify "essentially local safety hazards," failed to take  
26 any reasonable steps to reduce "essentially local safety hazards," and failed to warn of their  
27 existence. Accordingly, AMTRAK, AMTRAK Engineer/Conductor, Defendant THOMAS DOLLAHON,  
28 and other members of the crew of the subject train, UPRC, and DOES 1 through 50, and each of

1 them, did nothing to slow the train, prepare to slow the train, or otherwise account for the local  
2 safety hazard at the INCIDENT SITE. The existence of an unidentified and unaccounted for local  
3 safety hazard was one of the contributing factors that caused the subject incident.

4 35. The area in and around INCIDENT SITE should have been protected by a slow order  
5 for railroad traffic traversing the subject railroad crossing. If such a slow order was in effect for  
6 this section of track, then it was violated by the train involved in this incident. The failure of the  
7 train involved in this incident to slow for the unsafe conditions at this crossing was a contributing  
8 factor to this incident.

9 36. Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, also failed  
10 to instruct their train crews on the appropriate circumstances under which they should be  
11 prepared to brake, slow, or stop trains for safety hazards. Defendants AMTRAK and DOES 1  
12 through 50, inclusive and each of them, knew or should have known the risks to the public  
13 created by their failure to instruct their train crews about the duty to slow or stop trains to avoid  
14 safety hazards at unmarked and marked pedestrian crossings, but have elected to not instruct  
15 their crews about these duties. Because of this inadequate training, the crew of the subject train  
16 approached the subject pedestrian crossing without adequately addressing the existing safety  
17 hazards at the INCIDENT SITE. The lack of training and preparedness of AMTRAK  
18 Engineer/Conductor, Defendant THOMAS DOLLAHON, and other members of the crew of the  
19 subject train, was one of the contributing factors that caused the subject incident.

20 37. Defendants AMTRAK and DOES 1 through 50, inclusive and each of them, were  
21 operating, controlling, entrusting, maintaining, inspecting, and/or repairing the subject train in a  
22 negligent and careless manner and in violation of California statutes and regulations, and are  
23 therefore negligent per se. Said Defendants, inclusive and each of them, also violated statutory  
24 duties in their entrustment of the train to AMTRAK Engineer/Conductor, Defendant THOMAS  
25 DOLLAHON, and other members of the crew of the subject train, and are therefore negligent per  
26 se. Said Defendants, inclusive and each of them, also violated statutory duties in their training of  
27 AMTRAK Engineer/Conductor, Defendant THOMAS DOLLAHON, and other members of the crew of  
28 the subject train, and are therefore negligent per se. The purpose of the aforementioned statutes

1 and/or regulations is to protect the interest of the public and Decedent from the kind of harm that  
2 resulted from Defendants' actions and/or inactions and that caused Decedent's death and  
3 Plaintiffs' damages, and the particular hazard caused by Defendants' actions and/or inactions,  
4 which caused Decedent's death and Plaintiffs' damages.

5 38. At all times relevant hereto, Defendants AMTRAK and DOES 1 through 50, inclusive  
6 and each of them, negligently hired and discharged mandatory and/or non-delegable duties in the  
7 ownership, lease, control, development, construction, design, management, inspection,  
8 maintenance, and/or repair of the INCIDENT SITE and/or the subject train and railroad crossing.

9 39. At all times relevant hereto, Defendants AMTRAK, UPRC, and DOES 1 through 50,  
10 inclusive and each of them, negligently hired and discharged mandatory and/or non-delegable  
11 duties in the ownership, lease, control, development, construction, design, management,  
12 inspection, maintenance and/or repair of the INCIDENT SITE.

13 40. At all times relevant hereto, Defendants DOES 1 through 50, inclusive and each of  
14 them, were the agents, servants, contractors, subcontractors, independent contractors, and/or  
15 employees of Defendants AMTRAK and/or UPRC, and in doing the things herein alleged, were  
16 acting within the course and scope and purpose of their authority as such agents, servants,  
17 contractors, subcontractors, independent contractors, and/or employees, and with the permission  
18 and consent of their employers and co-Defendants. One or more agents, servants, contractors,  
19 subcontractors, independent contractors, and/or employees of Defendants AMTRAK, UPRC, CITY  
20 OF FREMONT, and DOES 1 through 50, inclusive and each of them, caused Decedent's death and  
21 the damages to Plaintiffs in the scope of their employment, agency, and/or representation under  
22 circumstances where they would be personally liable.

23 41. At all times relevant hereto, Defendant AMTRAK, by itself or through its agents,  
24 servants, contractors, subcontractors, independent contractors, and/or employees, negligently  
25 hired and/or contracted with Defendants UPRC, CITY OF FREMONT, and/or DOES 1 through 50,  
26 inclusive and each of them, in the management and operation of its property and the subject train  
27 and negligently failed to discharge its mandatory and/or non-delegable duties.

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1           42. At all times relevant hereto, Defendant UPRC, by itself or through its agents, servants,  
2 contractors, subcontractors, independent contractors, and/or employees, negligently hired and/or  
3 contracted with Defendants AMTRAK and/or DOES 1 through 50, inclusive and each of them, in the  
4 management and operation of its property and negligently failed to discharge its mandatory and/or  
5 non-delegable duties.

6           43. Defendants DOES 1 through 50, inclusive and each of them, owned, leased, controlled,  
7 developed, constructed, designed, managed, operated, inspected, maintained, and/or repaired the  
8 area in or about the INCIDENT SITE.

9           44. Defendants DOES 1 through 50, inclusive and each of them, are negligently or  
10 otherwise responsible in some manner for the events and happenings herein referred to, and  
11 negligently or otherwise caused injuries and damages proximately thereby to the Plaintiffs as herein  
12 alleged.

13           45. The INCIDENT SITE was in an unsafe, dangerous, and defective condition due to, *inter*  
14 *alia*, the negligent and careless ownership, leasing, operation, construction, building, design,  
15 maintenance, management, repair, control, inspection, hiring, fencing, discharge of mandatory and/or  
16 non-delegable duties, warnings, signage, visibility, obstructions, vegetation, trees, and/or  
17 illuminations of same by said Defendants, and each of them. Defendants, inclusive and each of them,  
18 negligently and carelessly failed, refused, and/or neglected to keep and maintain the INCIDENT SITE  
19 in a safe and usable condition for pedestrians, and negligently and carelessly failed to warn Decedent  
20 of the dangers of said INCIDENT SITE. Said Defendants, inclusive and each of them, had mandatory  
21 and/or non-delegable duties to inspect and maintain the INCIDENT SITE in a safe condition for  
22 pedestrians.

23           46. Defendants, inclusive and each of them, are liable for Decedent's death and  
24 Plaintiffs' injuries and damages in that, *Inter alia*, Defendants negligently hired, discharged  
25 mandatory and/or non-delegable duties, and/or negligently owned, leased, controlled, developed,  
26 constructed, fenced, designed, managed, operated, inspected, repaired, and/or illuminated the  
27 INCIDENT SITE; failed to place, maintain, or repair proper signs and/or markings and/or devices  
28 and/or signals which would have indicated to pedestrians, among other things, how to safely cross

1 the subject train tracks and observe oncoming trains; and failed to inspect, maintain, and/or  
2 repair the area in and around the INCIDENT SITE.

3 47. Defendants, inclusive and each of them, failed to warn the public of the unsafe,  
4 dangerous, and defective conditions at the INCIDENT SITE.

5 48. Defendants, inclusive and each of them, also failed to erect a barrier, fence, or  
6 warning to keep pedestrians from accessing the tracks and/or crossing or walking upon the  
7 railroad tracks at the INCIDENT SITE, which includes but is not limited to, a barrier, fence, or  
8 warning preventing pedestrians from walking parallel to and along the railroad tracks to reach the  
9 Fremont-Centerville Train Station's western platform.

10 49. Defendants, inclusive and each of them, encouraged and allowed pedestrians to  
11 enter the area of the tracks and walk along and/or across the tracks, pedestrian walkways, and  
12 pedestrian paths that were owned, controlled, constructed by, or allowed to exist by Defendants,  
13 inclusive and each of them, at or about the INCIDENT SITE. Prior to the Incident, the fact that  
14 pedestrians frequently and routinely accessed and crossed the tracks and walked upon and along  
15 the tracks at or about the INCIDENT SITE was known to Defendants, inclusive and each of them.  
16 Pedestrian paths were allowed to exist upon the properties that were owned and/or controlled by  
17 Defendants, inclusive and each of them, which drew pedestrians to and across the tracks and  
18 encouraged pedestrians to enter the area at or about the INCIDENT SITE.

19 50. At the time Decedent encountered the unsafe, dangerous, and defective conditions  
20 at the INCIDENT SITE, Defendants, inclusive and each of them, had actual and/or constructive  
21 notice of the existence of the aforementioned unsafe, dangerous, and defective conditions at or  
22 about the INCIDENT SITE and the negligent hiring and discharge of mandatory and/or non-  
23 delegable duties, and failed to prevent Decedent from being killed at the INCIDENT SITE by fixing  
24 the above-described unsafe, dangerous, and defective conditions.

25 51. Decedent's use of Defendants' property was reasonably foreseeable at the time of  
26 the incident. It was reasonably foreseeable that as a direct and proximate result of said acts,  
27 omissions, and negligence of Defendants, inclusive and each of them, and each of their breaches

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1 of duties, that Decedent would be killed and Plaintiffs caused to sustain general and economic  
2 damages.

3 52. At all times relevant hereto, Defendants, inclusive and each of them, either by  
4 themselves or through their agents, servants, contractors, subcontractors, independent  
5 contractors, and/or employees, negligently performed their duties and failed to warn Decedent of  
6 unsafe and dangerous conditions associated with the INCIDENT SITE. Defendants, inclusive and  
7 each of them, are liable for breaches of their duties set forth herein.

8 53. Defendants, and each of them, are vicariously liable for Decedent's death and  
9 Plaintiffs' injuries and damages that were caused in whole or part by their agents, servants,  
10 contractors, subcontractors, independent contractors, and/or employees.

11 54. At all times relevant hereto, Defendants, inclusive and each of them, owed a duty of  
12 care to Decedent and others. Said duty of care to pedestrians and others, includes without  
13 limitation, the duty to follow safety regulations, to avoid causing injury to pedestrians in the area  
14 of the INCIDENT SITE, to avoid causing injury to pedestrians crossing railroad tracks, to sound a  
15 sufficient audible warning device, to maintain trains under safe speed, to keep a lookout for  
16 crossing traffic and keep trains under control necessary to cope with foreseeable situations, and to  
17 install and maintain adequate warning systems including posting signs, warning lights, barriers,  
18 and/or flagmen at crossings.

19 55. It was reasonably foreseeable that as a direct and proximate result of said acts,  
20 omissions, and negligence of Defendants, inclusive and each of them, and each of their breaches  
21 of duties, that Decedent would be killed and Plaintiffs caused to sustain general and economic  
22 damages.

23 56. As a direct and proximate result of said acts, omissions, and negligence of  
24 Defendants, and each of them, Decedent was killed and Plaintiffs have been generally damaged in  
25 a sum in excess of the minimal jurisdictional limits of this Court, for the loss of love,  
26 companionship, comfort, care, assistance, protection, affection, society, and moral support of  
27 Decedent.

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57. As a direct and proximate result of the said acts, omissions, and negligence of Defendants, and each of them, Plaintiffs have incurred, and will incur, special damages, which include without limitation: funeral and burial expenses, the loss of gifts or benefits that Plaintiffs would have expected to receive from Decedent, the reasonable value of household services that Decedent would have provided, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs, and leave is requested to amend this Complaint to conform to proof at the time of trial.

58. WHEREFORE, Plaintiffs pray for judgment against Defendants, inclusive and each of them, as herein set forth.

**SECOND CAUSE OF ACTION FOR PREMISES LIABILITY – WRONGFUL DEATH UNDER CODE OF CIVIL PROCEDURE § 377.60 ET SEQ. AGAINST DEFENDANTS AMTRAK, UPRC, THOMAS DOLLAHON, AND DOES 1 THROUGH 50, INCLUSIVE AND EACH OF THEM**

59. Plaintiffs CANDACE KING and KELLY KING hereby reallege and incorporate by reference paragraphs 1 through 58 as though fully set forth herein.

60. On May 19, 2022, Decedent was injured and killed on the premises of the INCIDENT SITE.

61. At all times relevant hereto, the INCIDENT SITE was owned, leased, rented, marketed, controlled, secured, operated, built, constructed, developed, designed, maintained, managed, inspected, and/or repaired by Defendants AMTRAK, UPRC, THOMAS DOLLAHON, and DOES 1 through 50, inclusive and each of them.

62. Defendants, inclusive and each of them, wantonly, recklessly, negligently, and carelessly owned, leased, rented, marketed, controlled, secured, operated, built, constructed, developed, designed, maintained, managed, inspected and/or repaired the INCIDENT SITE.

63. The INCIDENT SITE was in an unsafe, dangerous, and defective condition due to, *inter alia*, the negligent and careless ownership, leasing, operation, construction, building, design, maintenance, management, repair, control, inspection, hiring, fencing, discharge of mandatory and/or non-delegable duties, warnings, signage, visibility, obstructions, vegetation, trees, and/or illuminations of same by said Defendants, inclusive and each of them. Defendants, inclusive and each of them, negligently and carelessly failed, refused, and/or neglected to keep and maintain

1 the INCIDENT SITE in a safe and usable condition for pedestrians, and negligently and carelessly  
2 failed to warn Decedent of the dangers of said INCIDENT SITE.

3 64. Defendants, inclusive and each of them, are liable for Decedent's death and  
4 Plaintiffs' injuries and damages in that, *inter alia*, Defendants negligently hired, discharged  
5 mandatory and/or non-delegable duties, and/or negligently owned, leased, controlled, developed,  
6 constructed, fenced, designed, managed, operated, inspected, repaired, and/or illuminated the  
7 INCIDENT SITE; failed to place, maintain, or repair proper signs and/or markings and/or devices  
8 and/or signals which would have indicated to pedestrians, among other things, how to safely cross  
9 the subject train tracks and observe oncoming trains; and failed to inspect, maintain, and/or  
10 repair the area in and around the INCIDENT SITE.

11 65. Defendants, inclusive and each of them, failed to warn the public of the unsafe,  
12 dangerous, and defective conditions at the INCIDENT SITE.

13 66. Defendants, inclusive and each of them, also failed to erect a barrier, fence, or  
14 warning to keep pedestrians from accessing the tracks and/or crossing or walking upon the  
15 railroad tracks at the INCIDENT SITE, which includes but is not limited to, a barrier, fence, or  
16 warning preventing pedestrians from walking parallel to and along the railroad tracks to reach the  
17 Fremont-Centerville Train Station's western platform.

18 67. Defendants, inclusive and each of them, encouraged and allowed pedestrians to  
19 enter the area of the tracks and walk along and/or across the tracks, pedestrian walkways, and  
20 pedestrian paths that were owned, controlled, constructed by, or allowed to exist by Defendants,  
21 inclusive and each of them, at or about the INCIDENT SITE. Prior to the incident, the fact that  
22 pedestrians frequently and routinely accessed and crossed the tracks and walked upon and along  
23 the tracks at or about the INCIDENT SITE was known to Defendants, inclusive and each of them.  
24 Pedestrian paths were allowed to exist upon the properties that were owned and/or controlled by  
25 Defendants, inclusive and each of them, which drew pedestrians to and across the tracks and  
26 encouraged pedestrians to enter the area at or about the INCIDENT SITE.

27 68. At the time Decedent encountered the unsafe, dangerous, and defective conditions,  
28 Defendants, inclusive and each of them, had actual and/or constructive notice of the existence of

1 the aforementioned unsafe, dangerous, and defective conditions and the negligent hiring and  
 2 discharge of mandatory and/or non-delegable duties, and failed to prevent Decedent from being  
 3 killed at the INCIDENT SITE by fixing the above-described unsafe, dangerous, and defective  
 4 conditions.

5 69. Decedent's use of Defendants' property was reasonably foreseeable at the time of  
 6 the incident. It was reasonably foreseeable that as a direct and proximate result of said acts,  
 7 omissions, and negligence of Defendants, inclusive and each of them, and each of their breaches  
 8 of duties, that Decedent would be killed and Plaintiffs caused to sustain general and economic  
 9 damages.

10 70. At all times relevant hereto, Defendants, and each of them, violated state and local  
 11 laws for safe design, construction, building, maintenance, inspection, and repair of the INCIDENT  
 12 SITE.

13 71. As a direct and proximate result of said dangerous and unsafe conditions of the  
 14 INCIDENT SITE, Decedent was killed and Plaintiffs were caused to sustain injuries and damages as  
 15 set forth herein.

16 72. WHEREFORE, Plaintiffs pray for judgment against Defendants, inclusive and each of  
 17 them, as herein set forth.

18 **THIRD CAUSE OF ACTION FOR DANGEROUS CONDITION OF PUBLIC PROPERTY –**  
 19 **WRONGFUL DEATH UNDER CODE OF CIVIL PROCEDURE § 377.60 ET SEQ. AGAINST**  
 20 **DEFENDANTS CITY OF FREMONT, CAPITOL CORRIDOR JOINT POWERS AUTHORITY, AND**  
 21 **DOES 1 THROUGH 50, INCLUSIVE AND EACH OF THEM [GOVERNMENT CODE §§ 830,**  
 22 **830.8, & 835, ET SEQ.]**

23 73. Plaintiffs CANDACE KING and KELLY KING hereby reallege and incorporate by  
 24 reference paragraphs 1 through 72 as though fully set forth herein.

25 74. Defendants CITY OF FREMONT, CAPITOL CORRIDOR JOINT POWERS AUTHORITY,  
 26 and DOES 1 through 50, inclusive and each of them, are liable for Decedent's death and Plaintiffs'  
 27 injuries and damages pursuant to the following California Government Code statutes concerning a  
 28 dangerous condition of public property: 830, 830.8, 835 *et seq.*, including without limitation  
 Sections 835.2. Defendants are liable for breaches of their duties set forth herein.

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1        75. At all relevant times hereto, Defendants DOES 1 through 50, inclusive and each of  
2 them, were the agents, servants, and/or employees of Defendants CITY OF FREMONT, CAPITOL  
3 CORRIDOR JOINT POWERS AUTHORITY, and DOES 1 through 50, inclusive and each of them, and  
4 in doing the things herein alleged, were acting within the course and scope and purpose of their  
5 authority as such agents, servants, and/or employees, and with the permission and consent of  
6 their employers and co-Defendants. Defendants DOES 1 through 50, inclusive and each of them,  
7 tortiously inflicted the injuries to Plaintiffs in the scope of their employment, agency, or  
8 representation under circumstances where they would be personally liable under California  
9 Government Code § 840.2.

10        76. The premises of the INCIDENT SITE were in a dangerous and defective condition  
11 due to, *inter alia*, the negligent ownership, leasing, operation, construction, building, design,  
12 maintenance, management, repair, control, inspection, hiring, fencing, discharge of mandatory  
13 and/or non-delegable duties, warnings, signage, visibility, obstructions, vegetation, trees, and/or  
14 illuminations of same by said Defendants, inclusive and each of them. Defendants, inclusive and  
15 each of them, negligently failed, refused, and/or neglected to maintain the INCIDENT SITE in a  
16 safe condition for pedestrians.

17        77. Defendants, inclusive and each of them, encouraged and allowed pedestrians to  
18 enter the area of the tracks and walk along and/or across the tracks, pedestrian walkways, and  
19 pedestrian paths that were owned, controlled, constructed by, or allowed to exist by Defendants,  
20 inclusive and each of them, at or about the INCIDENT SITE. Prior to the incident, the fact that  
21 pedestrians frequently and routinely accessed and crossed the tracks and walked upon and along  
22 the tracks at or about the INCIDENT SITE was known to Defendants, inclusive and each of them.  
23 Pedestrian paths were allowed to exist upon the properties that were owned and/or controlled by  
24 Defendants, inclusive and each of them, which drew pedestrians to and across the tracks and  
25 encouraged pedestrians to enter the area at or about the INCIDENT SITE. The existence of the  
26 railroad crossing at the INCIDENT SITE and pedestrian paths in and around the tracks at the  
27 INCIDENT SITE constituted a dangerous condition of public property at the time of the incident.

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1        78. Defendants, inclusive and each of them, did not warn the public of the dangerous  
2 conditions at the INCIDENT SITE. Defendants, inclusive and each of them, did not have adequate  
3 warning devices, proper markings, lighting, lines-of-sight, signals, and/or signs, and did not have  
4 adequate track crossing protection. Defendants, inclusive and each of them, did not warn the  
5 public of the dangerous conditions at the INCIDENT SITE and did not construct, build, design,  
6 maintain, inspect, and/or repair said property, and did not place, maintain, and/or or repair proper  
7 signs, pedestrian markings and devices, crossings, warning devices, and/or signals and/or ramps  
8 which would have indicated to pedestrians, among other things, how to safely cross the subject  
9 train tracks at the INCIDENT SITE. Defendants, inclusive and each of them, did not construct,  
10 build, design, maintain, inspect, and/or repair a pedestrian crossing, warning devices, signals,  
11 signs, and/or crossing protection for pedestrians.

12        79. Defendants, inclusive and each of them, negligently performed their duties and  
13 failed to warn the public of the dangerous conditions at INCIDENT SITE, which included  
14 inadequate warning devices, proper markings, lighting, lines-of-sight, signals and/or signs, and  
15 inadequate track crossing protection. Defendants failed to warn the public of the dangerous  
16 conditions at the INCIDENT SITE and negligently constructed, built, designed, maintained,  
17 inspected, and/or repaired said property, and failed to place, maintain and/or or repair proper  
18 signs, pedestrian markings and devices, warning devices, signals, and/or ramps which would have  
19 indicated to pedestrians, among other things, how to safely cross the subject train tracks.  
20 Defendants, inclusive and each of them, negligently failed to construct, build, design, maintain,  
21 inspect, and/or repair a pedestrian crossing, warning devices, signals, signs, and/or crossing  
22 protection for pedestrians. Defendants, inclusive and each of them, negligently failed to place  
23 proper markings, striping, signage, lighting, and/or signals in and around said property. Said  
24 failures to warn and said acts or inactions each constituted a dangerous condition of public  
25 property at the time of the incident. The property of Defendants, inclusive and each of them, was,  
26 therefore, in a dangerous condition at the time of the incident.

27        80. Defendants, inclusive and each of them, did not and failed to erect a barrier, fence,  
28 or warning to keep pedestrians from accessing the tracks and/or crossing or walking upon the

1 railroad tracks at the INCIDENT SITE, which includes but is not limited to, a barrier, fence, or  
2 warning preventing pedestrians from walking parallel to and along the railroad tracks to reach the  
3 Fremont-Centerville Train Station's western platform. The failure to erect such a barrier, fence, or  
4 warning constituted a dangerous condition of public property. The property of Defendants,  
5 inclusive and each of them, was, therefore, in a dangerous condition at the time of the Incident.

6 81. At the time Decedent encountered the aforementioned unsafe, dangerous, and  
7 defective conditions, Defendants, inclusive and each of them, had actual and/or constructive  
8 notice of the existence of the aforementioned unsafe, dangerous, and defective conditions, and  
9 failed to prevent Decedent from being killed at the INCIDENT SITE by fixing the above-described  
10 unsafe, dangerous, and defective conditions. Defendants, inclusive and each of them, had actual  
11 knowledge of the conditions and knew or should have known of their dangerous character in that  
12 Defendants, inclusive and each of them, were aware of, encouraged, and allowed pedestrians to  
13 enter the area of the tracks and walk along and/or across the tracks, pedestrian walkways, and  
14 pedestrian paths that were owned, controlled, constructed by, or allowed to exist by Defendants,  
15 inclusive and each of them, at or about the INCIDENT SITE, before the incident. Defendants,  
16 inclusive and each of them, also had constructive notice of the dangerous conditions because the  
17 conditions existed for such a period of time and were of such an obvious nature that the  
18 Defendants, inclusive and each of them, in the exercise of due care, should have discovered the  
19 conditions and their dangerous character. Among other things, Defendants, inclusive and each of  
20 them, by and through their employees, agents, and/or representatives, were routinely performing  
21 work in and around the INCIDENT SITE.

22 82. At the time of the incident, a dangerous condition existed as defined in California  
23 Government Code § 830: "'Dangerous condition' means a condition of property that creates a  
24 substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such  
25 property or adjacent property is used with due care in a manner in which it is reasonably  
26 foreseeable that it will be used." The dangerous conditions of the INCIDENT SITE created a  
27 substantial risk of injury to Decedent, who was using the property and adjacent property as an  
28 invitee with due care in a manner that was reasonably foreseeable that it would be used at the

1 time of the incident. Decedent was a member of the public at the time of the incident. The  
2 dangerous conditions of public property created a reasonably foreseeable risk that Decedent would  
3 be struck by a train and killed.

4 83. It was reasonably foreseeable that as a direct and proximate result of said acts,  
5 omissions, and negligence of Defendants, inclusive and each of them, and each of their breaches  
6 of duties, that Decedent would be killed and Plaintiffs caused to sustain general and economic  
7 damages.

8 84. The acts, omissions, and/or negligence of Defendants, inclusive and each of them,  
9 created a dangerous condition of public property.

10 85. Because of the acts, omissions, and/or negligence of Defendants, inclusive and each  
11 of them, the dangerous condition of public property was allowed to exist and Defendants, inclusive  
12 and each of them, breached their duty of care to Decedent. The aforementioned acts, omissions,  
13 and negligence of Defendants, inclusive and each of them, created a dangerous condition of public  
14 property that resulted in the subject incident. Thus, Defendants, inclusive and each of them,  
15 breached their duty of care to Decedent.

16 86. As a direct and proximate result of said acts, omissions, and negligence of  
17 Defendants, inclusive and each of them, Decedent was killed.

18 87. As a direct and proximate result of said acts, omissions, and negligence of  
19 Defendants, inclusive and each of them, and the dangerous condition of public property, Plaintiffs  
20 have incurred economic damages and continue to incur these damages, the full nature and extent  
21 of which are not yet known to Plaintiffs, and leave is requested to amend this Complaint to  
22 conform to proof at the time of trial.

23 88. As a direct and proximate result of said acts, omissions, and negligence of  
24 Defendants, inclusive and each of them, and the dangerous condition of public property, Plaintiffs  
25 have incurred, and will incur, special damages, which include without limitation, funeral and burial  
26 expenses, the loss of gifts or benefits that Plaintiffs would have expected to receive from  
27 Decedent, the reasonable value of household services that Decedent would have provided, and

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1 other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs, and  
 2 leave is requested to amend this Complaint to conform to proof at the time of trial.

3 89. As a direct and proximate result of the said acts, omissions, and negligence of  
 4 Defendants, inclusive and each of them, Plaintiffs have suffered general damages, including  
 5 without limitation, the loss of love, companionship, comfort, care, assistance, protection, affection,  
 6 society, and moral support of Decedent, thereby proximately causing Plaintiffs' general damages  
 7 in a sum to be ascertained according to proof.

8 90. WHEREFORE, Plaintiffs pray for judgment against Defendants, inclusive and each of  
 9 them, as herein set forth.

10 **FOURTH CAUSE OF ACTION FOR NEGLIGENCE – WRONGFUL DEATH UNDER CODE OF**  
 11 **CIVIL PROCEDURE § 377.60 ET SEQ. AGAINST DEFENDANTS CITY OF FREMONT,**  
 12 **CAPITOL CORRIDOR JOINT POWERS AUTHORITY, AND DOES 1 THROUGH 50, INCLUSIVE**  
 13 **AND EACH OF THEM [GOVERNMENT CODE § 815.4, 818.6]**

14 91. Plaintiffs CANDACE KING and KELLY KING hereby reallege and incorporate by  
 15 reference paragraphs 1 through 90 as though fully set forth herein.

16 92. Defendants CITY OF FREMONT, CAPITOL CORRIDOR JOINT POWERS AUTHORITY,  
 17 and DOES 1 through 50, inclusive and each of them, were and are at all times relevant to this  
 18 action public entities within the meaning of Government Code § 811.2, and all of said Defendants  
 19 owned, operated, leased, controlled, constructed, built, designed, operated, maintained,  
 20 inspected, modified, repaired, and/or were otherwise responsible for part of the INCIDENT SITE.  
 21 This cause of action is brought against Defendants CITY OF FREMONT, CAPITOL CORRIDOR JOINT  
 22 POWERS AUTHORITY, and DOES 1 through 50, inclusive and each of them, under California  
 23 Government Code §§ 815.4 and 818.6, as explained below.

24 93. Pursuant to California Government Code § 815.4, Defendants CITY OF FREMONT,  
 25 CAPITOL CORRIDOR JOINT POWERS AUTHORITY, and DOES 1 through 50, inclusive and each of  
 26 them, are vicariously liable for Decedent's death and Plaintiffs' injuries and damages resulting  
 27 from the acts or omissions of an independent contractor, committed by the independent  
 28 contractor itself or through its employee, agent, or representative, while completing work at the  
 INCIDENT SITE by, among other things, failing to complete work in a careful manner with

1 reasonable care or maintaining the INCIDENT SITE in a safe condition while completing work. Said  
2 Defendants are also vicariously liable for Decedent's death and Plaintiffs' injuries and damages  
3 resulting from the failure of independent contractors, by the independent contractor itself or  
4 through its employee, agent, or representative, to take special precautions and prevent against  
5 special risks of physical harm to third persons during the work process or as a result of work  
6 completed at the INCIDENT SITE when said Defendants knew or should have known such physical  
7 harms were likely to occur without special precautions to prevent against the risk of harm.

8 94. At all times relevant hereto, Defendants, inclusive and each of them, by themselves  
9 and through their employees, negligently hired and/or contracted with Defendants AMTRAK;  
10 UPRC; and/or DOES 1 through 50, and/or each other, to construct, build, design, operate,  
11 maintain, inspect, modify, and/or repair the INCIDENT SITE.

12 95. At all times relevant hereto, Defendants, inclusive and each of them, were and are  
13 the owners and/or controllers of the INCIDENT SITE, thereby establishing a duty to act reasonably  
14 and with due care in their ownership and control and enforcement of the contracts it entered into  
15 with Defendants AMTRAK; UPRC; and/or DOES 1 through 50, and/or each other. At all times  
16 relevant hereto, Defendants, inclusive and each of them, by themselves and through their  
17 employees, negligently hired and/or contracted with each other and/or Defendants AMTRAK;  
18 UPRC; and/or DOES 1 through 50, to construct, build, design, operate, maintain, inspect, modify,  
19 and/or repair the INCIDENT SITE, and in doing so, Defendants negligently failed to discharge their  
20 duties.

21 96. Defendants AMTRAK, UPRC, DOES 1 through 50, CITY OF FREMONT, and/or  
22 CAPITOL CORRIDOR JOINT POWERS AUTHORITY, in contracting with each other, negligently  
23 performed the work they were hired to undertake and complete at the INCIDENT SITE because  
24 they failed to adequately construct, build, design, operate, maintain, inspect, modify, and/or  
25 repair the INCIDENT SITE. Among other things, Defendants AMTRAK, UPRC, DOES 1 through 50,  
26 CITY OF FREMONT, and/or CAPITOL CORRIDOR JOINT POWERS AUTHORITY, in contracting with  
27 each other, failed to perform work they contracted to do in a careful manner with reasonable care,  
28 failed to maintain the INCIDENT SITE in a safe condition for pedestrians, and failed to take

1 adequate precautions and safeguards regarding pedestrian access in and around the INCIDENT  
2 SITE.

3 97. Among other things, Defendants AMTRAK, UPRC, DOES 1 through 50, CITY OF  
4 FREMONT, and/or CAPITOL CORRIDOR JOINT POWERS AUTHORITY, in contracting with each  
5 other, were negligent by, among other things, failing to and/or inadequately taking necessary  
6 precautions to safely direct pedestrians in the area of the INCIDENT SITE and prevent pedestrians  
7 from walking along and/or crossing the tracks through pedestrian walkways and pedestrian paths  
8 that were allowed to exist by Defendants, inclusive and each of them.

9 98. Defendants, inclusive and each of them, knew or should have known of the  
10 dangerous and unsafe condition of the INCIDENT SITE. Defendants, inclusive and each of them,  
11 failed to warn Decedent of unsafe and dangerous condition associated with the INCIDENT SITE.  
12 Defendants, inclusive and each of them, had actual knowledge of the dangerous and unsafe  
13 condition and knew or should have known of the dangerous and unsafe condition in that  
14 Defendants, inclusive and each of them, were aware of, encouraged, and allowed pedestrians to  
15 enter the area of the tracks and walk along and/or across the tracks, pedestrian walkways, and  
16 pedestrian paths that were owned, controlled, constructed by, or allowed to exist by Defendants,  
17 inclusive and each of them, at or about the INCIDENT SITE, before the incident. Defendants,  
18 inclusive and each of them, also had constructive notice of the dangerous conditions because the  
19 conditions existed for such a period of time and were of such an obvious nature that the  
20 Defendants, inclusive and each of them, in the exercise of due care, should have discovered the  
21 conditions and their dangerous character. Among other things, Defendants, inclusive and each of  
22 them, by and through their employees, agents, and/or representatives, were routinely performing  
23 work in and around the INCIDENT SITE.

24 99. Said negligence of Defendants AMTRAK, UPRC, DOES 1 through 50, CITY OF  
25 FREMONT, and/or CAPITOL CORRIDOR JOINT POWERS AUTHORITY, inclusive and each of them, in  
26 contracting with each other caused or contributed to the occurrence of the incident by leaving the  
27 INCIDENT SITE in an unsafe and perilous condition for Decedent at the time of the incident.

28 ///

1           100. At all relevant times hereto, Defendants CITY OF FREMONT, CAPITOL CORRIDOR  
2 JOINT POWERS AUTHORITY, and DOES 1 through 50, inclusive and each of them, owed a duty of  
3 care to Decedent and to others.

4           101. Said negligence of Defendants AMTRAK, UPRC, DOES 1 through 50, CITY OF  
5 FREMONT, and/or CAPITOL CORRIDOR JOINT POWERS AUTHORITY, in contracting with each  
6 other, caused or contributed to the occurrence of the incident by leaving the INCIDENT SITE in an  
7 unsafe and dangerous condition at the time of the incident. Defendants, inclusive and each of  
8 them, are liable for breaches of their duties as set forth herein.

9           102. Defendants, inclusive and each of them, are vicariously liable for Decedent's death  
10 and Plaintiffs' injuries and damages that were caused in whole or part by independent contractors.

11           103. Pursuant to California Government Code § 818.6, said Defendants are also liable for  
12 the death of Decedent and Plaintiffs' injuries, which were caused, in part, by the failure of their  
13 agents, servants, and/or employees to make an inspection, and/or by reason of making an  
14 inadequate or negligent inspection, of their own property, for the purpose of determining whether  
15 the property complies with or violates any enactment or contains or constitutes a hazard to health  
16 or safety. Said Defendants, inclusive and each of them, through their agents, servants, and/or  
17 employees, failed to make an inspection, failed to make an adequate inspection, and/or  
18 negligently inspected their property at the INCIDENT SITE, for, among other things, the purpose  
19 of determining whether the property constituted a hazard to the health or safety of pedestrians,  
20 including Decedent. The property at the INCIDENT SITE constituted a hazard to the health and  
21 safety of Decedent at the time of the incident.

22           104. Defendant CAPITOL CORRIDOR JOINT POWERS AUTHORITY is also liable under  
23 Government Code § 815.2 for the negligence of its agents, servants, and/or employees within the  
24 scope of their employment in managing, operating, funding, administering, and/or overseeing rail  
25 projects, including but not limited to track, rail, signal, crossing, and station projects at the  
26 INCIDENT SITE, which is a separate and distinct basis for liability from the dangerous condition of  
27 public property statute (California Government Code § 835). Defendant CAPITOL CORRIDOR  
28 JOINT POWERS AUTHORITY is liable for the death of Decedent and Plaintiffs' injuries, which were

1 caused, in part, by the failure of its agents, servants, and/or employees to adequately and  
2 properly manage, operate, fund, administer, and/or oversee rail projects. Said failure to  
3 adequately and properly manage, operate, fund, administer, or oversee rail projects, including,  
4 but not limited to track, rail, signal, crossing, and station projects at the INCIDENT SITE, include,  
5 but are not limited to, the failure to have adequate warning devices and adequate protection from  
6 the tracks; the failure to have proper equipment, signs, markings, and devices for train crews; the  
7 failure to have proper signs, pedestrian markings and devices, warning devices and/or signals  
8 and/or ramps which would have indicated to pedestrians, among other things, how to safely walk  
9 around or cross the subject train tracks; the failure to construct, build, design, maintain, inspect,  
10 and/or repair pedestrian crossings, warning devices, signals, and/or signs and crossing protection  
11 for pedestrians; and the failure to erect a barrier, fence, or warning to keep pedestrians from  
12 accessing the tracks and/or crossing or walking upon the railroad tracks at the INCIDENT SITE,  
13 which includes but is not limited to, a barrier, fence, or warning preventing pedestrians from  
14 walking parallel to and along the railroad tracks to reach the Fremont-Centerville Train Station's  
15 western platform. Said failure to adequately and properly manage, operate, fund, administer, and  
16 oversee rail projects was a cause of Decedent's death and Plaintiffs' injuries and damages set  
17 forth herein.

18 105. It was reasonably foreseeable that as a direct and proximate result of said acts,  
19 omissions, and negligence of Defendants, inclusive and each of them, and each of their breaches  
20 of duties, that Decedent would be killed and Plaintiffs caused to sustain general and economic  
21 damages as set forth herein.

22 106. As a direct and proximate result of said acts, omissions, and negligence of  
23 Defendants, inclusive and each of them, and each of their breaches of duties, Decedent was killed  
24 and Plaintiffs were caused to sustain injuries and damages as set forth herein.

25 107. WHEREFORE, Plaintiffs pray for judgment against Defendants, inclusive and each of  
26 them, as herein set forth.

27 ///

28 ///

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs CANDACE KING and KELLY KING pray for judgment against all Defendants, inclusive and each of them, as follows:

1. For general damages according to proof at trial, including but not limited to loss of love, companionship, comfort, care, assistance, protection, affection, society, and moral support of Decedent.

2. For special damages according to proof at trial, including but not limit to funeral, burial, and related expenses; the loss of gifts or benefits that Plaintiffs would have expected to receive from Decedent; the reasonable value of household services that Decedent would have provided; and any other pecuniary losses according to proof at trial.

3. For pre-judgment interest according to proof, pursuant to Civil 55 3288 and 3291.

4. For costs of suit.

5. For such other and further relief as the court deems just and proper.

DATED: January 4, 2023

**DREYER BABICH BUCCOLA WOOD CAMPORA, LLP**

By: 

JOSEPH J. BABICH  
SEAN D. WISMAN

*Attorneys for Plaintiffs*

**DEMAND FOR JURY TRIAL**

Plaintiffs CANDACE KING and KELLY KING request a jury trial on all causes of action as to all Defendants.

DATED: January 4, 2023

**DREYER BABICH BUCCOLA WOOD CAMPORA, LLP**

By: 

JOSEPH J. BABICH  
SEAN D. WISMAN

*Attorneys for Plaintiffs*

# **EXHIBIT B**

VINCENT CASTILLO, State Bar No. 209298  
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ALEXEI N. OFFILL-KLEIN, State Bar No. 288448  
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Telephone: (415) 213-4098

Attorneys for Defendant  
NATIONAL RAILROAD PASSENGER CORPORATION  
dba AMTRAK

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

CANDACE KING, an individual, and  
KELLY KING, an Individual,

Plaintiffs,

v.

NATIONAL RAILROAD PASSENGER  
CORPORATION dba AMTRAK, a  
corporation; UNION PACIFIC  
RAILROAD COMPANY, a corporation;  
CITY OF FREMONT, a public entity;  
CAPITOL CORRIDOR JOINT POWERS  
AUTHORITY, a public entity; THOMAS  
DOLLAHON, an individual; and DOES 1-  
50 inclusive,

Defendants.

Case No. 23CV025180

**DEFENDANT NATIONAL RAILROAD  
PASSENGER CORPORATION DBA  
AMTRAK'S ANSWER TO PLAINTIFFS'  
COMPLAINT**

Action Filed: January 4, 2023  
Trial Date: None Set

1 Defendant NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK  
 2 (“Defendant”) answers the complaint of Plaintiffs CANDACE KING and KELLY KING  
 3 (“Plaintiffs”) as follows:

4 **GENERAL DENIAL**

5 In answering Plaintiffs’ complaint, Defendant denies every allegation contained therein  
 6 and denies that by reason of any act or omission by Defendant, its agents, or independent  
 7 contractors, that Plaintiffs were injured or damaged in any sum, or at all.

8 **AFFIRMATIVE DEFENSES**

9 1. As a first affirmative defense to each cause of action in the complaint, Defendant  
 10 alleges the complaint fails to state facts sufficient to constitute a cause of action against this  
 11 answering Defendant.

12 2. As a second affirmative defense to each cause of action in the complaint,  
 13 Defendant alleges Plaintiffs’ decedent’s own negligence caused or contributed to her death.

14 3. As a third affirmative defense to each cause of action in the complaint, Defendant  
 15 alleges other individuals or entities may have been negligent or otherwise responsible for injury  
 16 to Plaintiffs and/or the decedent. If liability is assessed against Defendant, which liability is  
 17 denied, Defendant is liable only to the extent of its proportional fault, if any.

18 4. As a fourth affirmative defense to each cause of action in the complaint, Defendant  
 19 alleges some or all of Plaintiffs’ claims are preempted by federal law, regulations, or codes,  
 20 including but not limited to the Federal Railroad Safety Act, 49 U.S.C. § 20101, et seq., and its  
 21 associated regulations. *See* 49 U.S.C. § 20106.

22 5. As a fifth affirmative defense to each cause of action in the complaint, Defendant  
 23 alleges that Plaintiffs lack standing to bring the claims alleged in the complaint.

24 WHEREFORE, Defendant prays for judgment as follows:

25 1. In favor of Defendant NATIONAL RAILROAD PASSENGER CORPORATION  
 26 dba AMTRAK on all causes of action in the complaint;

27 2. For Defendant’s costs of suit incurred herein; and

28 ///

3. For such other relief as should be granted.

Dated: January 18, 2023

CASTILLO, MORIARTY, TRAN &  
ROBINSON, LLP

By: 

VINCENT CASTILLO  
ALEXEI N. OFFILL-KLEIN  
Attorneys for Defendant  
NATIONAL RAILROAD PASSENGER  
CORPORATION dba AMTRAK

CASTILLO MORIARTY TRAN & ROBINSON LLP  
75 Southgate Ave  
Daily City, CA 94015

## PROOF OF SERVICE

*Candace King, et al., v. National Railroad Passenger Corporation dba Amtrak, et al.,*  
Alameda County Superior Court Case No. 23CV025180

I am a resident of the State of California, over 18 years of age and not a party to the within action. I am employed in the County of San Mateo; my business address is: 75 Southgate Ave, Daly City, CA 94015. On January 18, 2023, I served the within:

**DEFENDANT NATIONAL RAILROAD PASSENGER CORPORATION DBA  
AMTRAK'S ANSWER TO PLAINTIFFS' COMPLAINT**

on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:

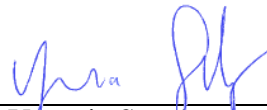
Joseph J. Babich  
Sean D. Wisman  
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Sacramento, CA 95826

T: (916) 379-3500  
F: (916) 379-3599

Email: [dbbwc-eservice@dbbwc.com](mailto:dbbwc-eservice@dbbwc.com)

- ☒ **By E-Mail or Electronic Transmission:** Based on a court order or an agreement of the parties to accept service by email or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 18, 2023, at San Francisco, California.

  
\_\_\_\_\_  
Yesenia Sanchez

# **EXHIBIT C**

VINCENT CASTILLO, State Bar No. 209298  
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Daly City, CA 94015  
Telephone: (415) 213-4098

Attorneys for Defendant  
NATIONAL RAILROAD PASSENGER CORPORATION  
dba AMTRAK

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

CANDACE KING, an individual, and  
KELLY KING, an Individual,

Plaintiffs,

v.

NATIONAL RAILROAD PASSENGER  
CORPORATION dba AMTRAK, a  
corporation; UNION PACIFIC  
RAILROAD COMPANY, a corporation;  
CITY OF FREMONT, a public entity;  
CAPITOL CORRIDOR JOINT POWERS  
AUTHORITY, a public entity; THOMAS  
DOLLAHON, an individual; and DOES 1-  
50 inclusive,

Defendants.

Case No. 23CV025180

**DEFENDANT NATIONAL RAILROAD  
PASSENGER CORPORATION DBA  
AMTRAK'S NOTICE OF REMOVAL**

Action Filed: January 4, 2023  
Trial Date: None Set

1 **TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **NOTICE IS HEREBY GIVEN** that Defendant NATIONAL RAILROAD PASSENGER  
3 CORPORATION dba AMTRAK has filed a Notice of Removal of the above-captioned action, *a*  
4 *copy of which is attached hereto as Exhibit 1*, with the United States District Court for the  
5 Northern District of California.

6 PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1446(b), the filing of  
7 said Notice in the United States District Court, together with the filing of said Notice in this  
8 Court, effects the removal of this action, and the above-captioned Court may proceed no further  
9 unless and until the case has been remanded.

10  
11 Dated: January 18, 2023

CASTILLO, MORIARTY, TRAN &  
ROBINSON, LLP

12  
13  
14 By: 

VINCENT CASTILLO  
ALEXEI N. OFFILL-KLEIN  
Attorneys for Defendant  
NATIONAL RAILROAD PASSENGER  
CORPORATION dba AMTRAK

CASTILLO MORIARTY TRAN & ROBINSON LLP  
75 Southgate Ave  
Daly City, CA 94015

## PROOF OF SERVICE

***Candace King, et al., v. National Railroad Passenger Corporation dba Amtrak, et al.,***  
Alameda County Superior Court Case No. 23CV025180

I am a resident of the State of California, over 18 years of age and not a party to the within action. I am employed in the County of San Mateo; my business address is: 75 Southgate Ave, Daly City, CA 94015. On January 18, 2023, I served the within:

**DEFENDANT NATIONAL RAILROAD PASSENGER CORPORATION DBA  
AMTRAK'S NOTICE OF REMOVAL**

on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:


Joseph J. Babich  
Sean D. Wisman  
DREYER BABICH BUCCOLA WOOD  
CAMPORA LLP  
20 Bicentennial Circle  
Sacramento, CA 95826

T: (916) 379-3500  
F: (916) 379-3599

Email: [dbbwc-eservice@dbbwc.com](mailto:dbbwc-eservice@dbbwc.com)

- ☒ **By E-Mail or Electronic Transmission:** Based on a court order or an agreement of the parties to accept service by email or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 18, 2023, at San Francisco, California.

  
\_\_\_\_\_  
Yesenia Sanchez

## CERTIFICATE OF SERVICE

I am a resident of the State of California, over 18 years of age and not a party to the within action. I am employed in the County of San Mateo; my business address is: 75 Southgate Ave, Daly City, CA 94015. On January 18, 2023, I served the within:

**NOTICE OF REMOVAL BY DEFENDANT NATIONAL RAILROAD PASSENGER CORPORATION DBA AMTRAK**

on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:

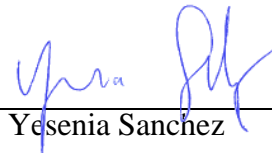
Joseph J. Babich  
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DREYER BABICH BUCCOLA WOOD  
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- ☒ **By E-Mail or Electronic Transmission:** Based on a court order or an agreement of the parties to accept service by email or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- ☒ I declare under the laws of the United States of America that I am employed in the office of a member of the Bar of this court at whose direction the service was made and that the foregoing is true and correct.

Executed on January 18, 2023, at San Francisco, California.

  
Yesenia Sanchez